

## Deposits in the Nature of a Cash Bond

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**PURPOSE:** This Informational Publication explains Department of Revenue Services (DRS) procedures for making a deposit in the nature of a cash bond under Conn. Gen. Stat. §12-39m.

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**EFFECTIVE DATE:** Upon issuance.

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**STATUTORY AUTHORITY:** Conn. Gen. Stat. §12-39m.

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### DEPOSITS IN THE NATURE OF A CASH

**BOND:** Conn. Gen. Stat. §12-39m permits a taxpayer objecting to the assessment of any tax due the State of Connecticut, or interest on the assessment, to make a remittance that is designated in writing as a deposit in the nature of a cash bond (“deposit”). A taxpayer may choose to make a deposit to limit the accrual of additional interest on the tax assessed, without conceding liability for the assessment. The taxpayer must use **Form APL-004**, *Deposit in the Nature of a Cash Bond*, to designate a remittance as a deposit in the nature of a cash bond. As long as a timely deposit is made as provided by Conn. Gen. Stat. §12-39m(a), the taxpayer has sole discretion to make a deposit or deposits.

**When to Make a Deposit:** A taxpayer may make a deposit *before* or *after* DRS issues a notice of assessment, but *prior to* the period for contesting the assessment expires or the Superior Court enters an order upholding the assessment, *whichever is later*. The period for contesting the assessment expires sixty (60) days after the notice of assessment is issued, unless the taxpayer timely files a protest of the assessment with the Appellate Division. If the taxpayer files a timely protest of the assessment, the period for contesting the assessment expires one month after the Appellate Division issues a final determination, unless a timely appeal of the final determination is taken to the Superior Court.

**Where to Send the Deposit:** *Before* DRS issues a notice of assessment, a taxpayer should hand-deliver **Form APL-004** and the deposit to the revenue examiner assigned to the audit examination or mail them to the Quality Control Unit of the Audit Division. *After* DRS issues a notice of assessment, a taxpayer should hand-deliver **Form APL-004** and the deposit to the appellate officer assigned to the protest or mail them to the Appellate Division. If a timely appeal of the final determination is taken to the Superior Court, a taxpayer should mail **Form APL-004** and the deposit to the Appellate Division.

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### APPLICATION OF A DEPOSIT IN THE NATURE OF A CASH BOND:

DRS will apply the deposit once the amount of tax due is finally determined. If a deposit is made before DRS issues a notice of assessment, the amount of the assessment (plus any interest or penalty) stated on the notice of assessment will not reflect or take into account the deposit. If the taxpayer files a timely protest of an assessment with the Appellate Division, and makes a deposit before the Appellate Division issues a final determination letter, the amount of the assessment (plus any interest or penalty) upheld by the final determination letter will not reflect or take into account the deposit.

The application of the deposit is a two-step process.

#### Step 1:

Compute a fraction. The numerator is the tax assessed by DRS, as stated on the notice of assessment. The denominator is the tax assessed by DRS, as stated on the notice of assessment, plus the interest that has accrued on the tax assessed through the date that the deposit is received.

#### Step 2:

Multiply the amount of the deposit by the fraction. Apply the product to the tax finally determined to be due. Then, apply the balance of the deposit first to the

interest accruing on the tax finally determined to be due and finally, to any penalty, unless a waiver of penalty has been requested and approved. (See Conn. Gen. Stat. §12-39h.)

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**NOT A PROTEST:** Filing **Form APL-004**, whether filed with the Audit Division or the Appellate Division, does not in and of itself constitute the filing of a protest of an assessment.

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**APPLICATION OF A REMITTANCE THAT IS NOT APPLIED AS A DEPOSIT IN THE NATURE OF A CASH BOND:** Any remittance that is not applied as a deposit in the nature of a cash bond is applied as a payment. Unlike a deposit in the nature of a cash bond, any remittance that is applied as a payment:

- Is applied, (per Conn. Gen. Stat. §12-39h), first to any penalties, then, to interest, and then, to tax; and
- Will, under no circumstances, be returned to the taxpayer before the final resolution of any controversy over an assessment; and
- That is returned to the taxpayer where the final resolution of the controversy does not uphold the assessment may be subject to interest, from the date the payment is received; and
- That was made before a notice of assessment is issued, will not be returned to the taxpayer if a notice of assessment is not issued for the underlying tax. In such event, the remittance will be treated as a tax voluntarily paid without assessment and will not be refunded as an overpayment of tax, unless a timely claim for refund has been filed.

DRS will not apply a remittance that is intended to be a deposit in the nature of a cash bond and that is inadvertently made by a taxpayer without **Form APL-004**, as a deposit in the nature of a cash bond. It will instead be applied as a payment, unless, no later than fourteen (14) days after the remittance is made, the taxpayer files **Form APL-004** and requests that DRS apply the remittance as a deposit in the nature of a cash bond. If the taxpayer makes such a timely request, DRS will treat the remittance as a deposit from the time that the remittance was made.

Also, if the taxpayer makes a remittance with **Form APL-004** before a notice of assessment is issued, or after a notice of assessment is issued, but before the

period for contesting the assessment expires, and does not subsequently file a timely protest, DRS will not return the remittance. DRS will apply the remittance as a deposit in the nature of a cash bond when the assessment becomes final. (See *Application of a Deposit in the Nature of a Cash Bond*.)

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**RETURN OF DEPOSIT:** A taxpayer may request, in writing, a return of all or part of a deposit in the nature of a cash bond at any time before the period for contesting the assessment expires, or the Superior Court enters an order upholding the assessment, *whichever is later*. If a request is made before a notice of assessment is issued, the request must be mailed to the Quality Control Unit of the Audit Division. If a request is made after a notice of assessment is issued, the request must be mailed to the Appellate Division. However, the Collection and Enforcement Division must approve the return of a deposit. Approval, as noted below, will not be given if there is any question as to the collectibility of the assessment.

If the Collection and Enforcement Division approves the request, the division to which the request was made will complete and send the appropriate form to the Accounts Receivable Unit of the Operations Division instructing that unit to return the portion of the deposit that the taxpayer has requested. If a portion of the deposit is returned, DRS will treat the taxpayer's account, when the controversy is finally resolved, as if that portion of a deposit so returned was never deposited. No interest accrues or is paid to a taxpayer on a deposit that is returned.

However, if the Collection and Enforcement Division determines that the collection of the tax will be in jeopardy if the deposit is returned, the Collection and Enforcement Division will so advise the division to which the request was made. That latter division will notify the taxpayer that the deposit will not be returned.

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**EFFECT ON OTHER DOCUMENTS:** None affected.

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**EFFECT OF THIS DOCUMENT:** An Informational Publication is a document that addresses frequently asked questions about a current DRS position, policy or practice, usually in a less technical question and answer format.

**FOR FURTHER INFORMATION:** Please call the Department of Revenue Services during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday:

- **1-800-382-9463** (toll-free within Connecticut), or
- **860-297-5962** (from anywhere)

**TTY, TDD, and Text Telephone users only** may transmit inquiries 24 hours a day by calling **860-297-4911**.

**FORMS AND PUBLICATIONS:** Forms and publications are available all day, seven days a week:

- **Internet:** Preview and download forms and publications from the DRS Web site: **[www.drs.state.ct.us](http://www.drs.state.ct.us)**
- **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu
- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (toll-free within Connecticut) and select **Option 2** from a touch-tone phone

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